

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:23-cv-00074-MR**

LAMAR CANNADY,)
)
Plaintiff,)
)
vs.)
)
MATTHEW SCHOFIELD,) **ORDER**
)
Defendant.)
)

THIS MATTER is before the Court *sua sponte*.

The pro se incarcerated Plaintiff filed this action pursuant to 42 U.S.C. § 1983. [Doc. 1]. The Plaintiff did not pay the filing fee, or file an application to proceed in forma pauperis. On March 16, 2023, the Clerk entered a Notice of Deficiency granting the Plaintiff 21 days within which to pay the filing fee file an application to proceed in forma pauperis. [Doc. 2]. The Plaintiff was cautioned that, “[f]ailure to do so may result in the dismissal of this action without prejudice for failure to prosecute.” [Id. at 1]. The Plaintiff has failed to pay the filing fee or to file an application to proceed in forma pauperis, and the time to do so has expired.

The Plaintiff appears to have abandoned this action, and the Court is unable to proceed. This case will therefore be dismissed without prejudice.

See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is **DISMISSED WITHOUT PREJUDICE.**

IT IS FURTHER ORDERED that the Clerk of Court is directed to terminate this action.

IT IS SO ORDERED.

Signed: April 16, 2023



Martin Reidinger
Chief United States District Judge

